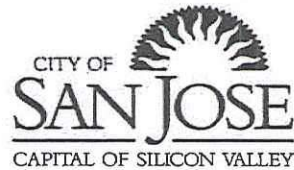


MITIGATION MONITORING AND REPORTING PROGRAM

267 DELMAS AVENUE (FILICE) RESIDENTIAL PROJECT

File No. SP16-010, T16-009

May 2016



PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

On _____, the Director of Planning accepted the Addendum to the ~~Downtown Strategy 2000 Final Program Environmental Impact Report (FPEIR)~~, the 2011 Envision San José 2040 General Plan FPEIR, the 2014 Diridon Station Area Plan FPEIR and the 2015 Envision San José 2040 Supplemental EIR for the 267 Delmas Avenue (Filice) Residential Project (Addendum), which will allow development of a 0.74-acre site on the northwest corner of West San Carlos Street and Delmas Avenue in the Downtown Planning Area and Diridon Station Planning Area of San José (APNs: 259-46-046, 259-46-047, and 259-46-048) with a 36-unit residential building and 1,600 square feet of commercial/retail space. The Addendum concluded that the implementation of the project could result in significant impacts on the environment but not beyond those identified in the previous EIRs. Mitigation measures were incorporated into the proposed project or are required as conditions of project approval. This Mitigation Monitoring and Reporting Program identifies the mitigation measures required for the project, responsibility for monitoring compliance, method of compliance, and timing of compliance. This document does not discuss those subjects for which the Addendum concluded that the impacts from implementation of the project would be less than significant.

In order to ensure the proposed project would not result in any new or more significant impacts than were previously identified in the certified ~~Downtown Strategy 2000 FPEIR~~, the 2011 Envision San José 2040 General Plan FPEIR, the 2014 Diridon Station Area Plan FPEIR, and the 2015 Envision San José 2040 Supplemental EIR, the applicant must agree to include and implement the mitigation measures contained herein before the Addendum can be accepted in accordance with the CEQA Guidelines.

Mark Robson, Manager
I, *of Park Delmas Investors, LLC*, the applicant, hereby agree to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of an initial study and Addendum for my proposed project. I understand that these Mitigation Measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level where feasible.

This Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they will be implemented.

Applicant's Signature _____

Date _____

6/27/16

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Adopted Mitigation Measures	Responsibility for Implementation	Method of Compliance Or Mitigation Action	Timing of Compliance	Monitoring Reporting Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY						
<p>Impact AIR – 1: While the project by itself would not result in significant regional air quality impacts, the project would contribute to the significant regional air quality impacts associated with the buildout of the Diridon Station Area Plan (DSAP). The current project design, as analyzed in the Addendum, is in compliance with Mitigation Measure AIR-1.1. During final design approval, PBCE shall determine if the design remains consistent with Mitigation Measure AIR-1.1, below.</p> <p>MM AIR – 1.1: The project applicant shall implement the following applicable Transportation Control Measures (TCMs):</p> <ul style="list-style-type: none"> • Design and locate buildings to facilitate transit access (e.g., locate building entrances near transit stops, eliminate building setbacks, etc.); • Provide preferential parking (e.g., near building entrance, sheltered area, etc.) for carpool and vanpool vehicles; • Provide secure, weather-protected bicycle parking; • Provide secure short-term bicycle parking for retail customers or non-commute trips; and • Provide direct, safe, attractive pedestrian access from DSAP to transit stops and adjacent development. 	Project applicant.	The project applicant shall incorporate the features into the Development Permit Plans for review and approval by Planning staff.	Prior to issuance of Development permit	Director of PBCE	The Director of PBCE will require that features be included in the Development permit plans.	Oversee implementation of the program as part of the Development permit.

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<p>Impact AIR – 1: While the project by itself would not result in significant regional air quality impacts, the project would contribute to the significant regional air quality impacts associated with the buildout of the Diridon Station Area Plan (DSAP). The current project design, as analyzed in the Addendum, is in compliance with Mitigation Measure AIR-1.1. During final design approval, PBCE shall determine if the design remains consistent with Mitigation Measure AIR-1.1, below.</p> <p>MM AIR – 1.1: The project applicant shall implement the following applicable Transportation Control Measures (TCMs):</p> <ul style="list-style-type: none"> • Design and locate buildings to facilitate transit access (e.g., locate building entrances near transit stops, eliminate building setbacks, etc.); • Provide preferential parking (e.g., near building entrance, sheltered area, etc.) for carpool and vanpool vehicles; • Provide secure, weather-protected bicycle parking; • Provide secure short-term bicycle parking for retail customers or non-commute trips; and • Provide direct, safe, attractive pedestrian access from DSAP to transit stops and adjacent development. 	Project applicant.	The project applicant shall incorporate the features into the Development Permit Plans for review and approval by Planning staff.	Prior to issuance of Development permit	Director of PBCE	The Director of PBCE will require that features be included in the Development permit plans.	Oversee implementation of the program as part of the Development permit.

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<p>Impact AIR – 2: The project would generate dust during construction activities that would affect nearby sensitive receptors.</p> <p>MM AIR – 2.1: The project applicant shall implement the following standard BAAQMD dust control measures during all phases of construction on the project site:</p> <ul style="list-style-type: none"> • All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. • All haul trucks transporting soil, sand, or other loose material off-site shall be covered. • All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. • All vehicle speeds on unpaved roads shall be limited to 15 miles per hour. • All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after 	Project applicant	All measures shall be printed on all construction documents, contracts, and approved project plans for grading and building permits. Actions shall be followed during grading and construction activities.	Prior to issuance of Grading and Building Permits	PBCE Supervising Environmental Planner	Measures shall be on all construction documents, contracts, and approved project plans for grading and building permits.	The measure shall be implemented for the duration of construction activities.

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<p>grading unless seeding or soil binders are used.</p> <ul style="list-style-type: none"> Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. <p>These measures would be placed on project plan documents prior to issuance of any grading permits for the project.</p>						
Biological Resources						
<p>Impact BIO-1: If project demolition and tree removals are not scheduled to occur between October and January (to avoid nesting raptor season), the project could result in a significant impact to nesting raptors.</p> <p>Mitigation Measure BIO-1: Implementation of the following mitigation measures, in conformance with the California Fish and Game Code and provisions of the federal Migratory Bird Treaty Act and City of San José General Plan Policies ER-5.1 and ER-5.2 would avoid impacts to nesting raptors or reduce impacts on nesting raptors to a less than significant level.</p> <p>If possible, demolition and tree removals shall be scheduled between September and January (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be completed by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation:</p> <ul style="list-style-type: none"> Between February and April (inclusive) pre-construction surveys shall be 	Project applicant and qualified biologist.	<p>Avoid construction activities during the nesting season.</p> <p>If the nesting season cannot be avoided, a qualified biologist conduct all required preconstruction/pre-disturbance surveys and complete a final report.</p>	Prior to issuance of grading permit and ground disturbance activities.	PBCE Supervising Environmental Planner	Review nesting surveys and final report.	Prior to issuance of grading permit. Surveys and reports shall be submitted in coordination with ground disturbance activities.

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<p>completed no more than 14 days prior to the initiation of construction activities or tree removal.</p> <ul style="list-style-type: none"> Between May and August (inclusive), pre-construction surveys shall be completed no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Wildlife (CDFW), designate a construction-free buffer zone (typically 250 feet) around the nest, which shall be protected from disturbance through the duration of nesting activity. <p>The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Supervising Environmental Planner prior to the start of any grading.</p>						
<p>Impact BIO-2: Construction activities near active bat roosts could result in injury or mortality to individual bats.</p> <p>Mitigation Measure BIO-2: Surveys for roosting bats shall be completed by a qualified biologist no more than thirty (30) days prior to any building demolition activities.</p> <ul style="list-style-type: none"> If a female or maternity colony of bats is found on the project site, and the buildings can be demolished without disturbance to the roosting colony, a bat biologist shall designate buffer zones (both physical and temporal) as necessary to ensure the continued success of the colony. Buffer zones may include a 200-foot buffer zone from the roost and/or timing of the demolition activities outside the maternity roosting season (after July 31 and before March 1). If an active nursery roost is known to occur on the site and the demolition 	Project applicant and qualified biologist.	<p>Avoid construction activities during the maternity roosting season.</p> <p>A qualified biologist conduct all required preconstruction/pre-disturbance surveys and complete a final report with monitoring recommendations, when applicable.</p>	Prior to issuance of grading permit and ground disturbance activities.	PBCE Supervising Environmental Planner	Review roosting surveys and final report with monitoring recommendations, when applicable.	Prior to issuance of grading permit. Surveys and reports shall be submitted in coordination with ground disturbance activities.

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<p>project cannot be completed outside of the maternity roosting season, bats may be excluded after July 31 and before March 1 to prevent the formation of maternity colonies. Such exclusion shall occur under the direction of a bat biologist, by sealing openings and providing bats with one-way exclusion doors. In order to avoid excluding all potential maternity roosting habitat simultaneously, alternative roosting habitat, as determined by the bat biologist, shall be in place at least one summer season prior to the exclusion. Bat roosts shall be monitored as determined necessary by a qualified bat biologist, and the removal or displacement of bats shall be completed in conformance with the requirements of the CDFW.</p> <p>A biologist report outlining the results of pre-demolition surveys and any recommended buffer zones or other mitigation shall be submitted by the applicant to the satisfaction of the City's Supervising Environmental Planner prior to the issuance of any demolition permit or tree removal.</p>						
GEOLOGY AND SOILS						
<p>Impact GEO – 1: The buildings and pavement constructed as a part of the project could be subject to soil hazards related to expansive soils and settlement or heave of structures. (Significant Impact)</p> <p>Mitigation Measures GEO – 1: Prior to issuance of any site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San José Public Works Department (PWD) for review and approval. The project applicant shall implement the recommendations in the investigation to minimize impacts from expansive soils, uneven settlement, or heave of structures. Options to address these conditions shall include the following procedure or equivalent approved by PWD:</p> <p>1) moisture conditioning and controlled compaction of the soils;</p> <p>2) support structures on special foundations such as post-tensioned slabs or drilled piers and grade beams;</p>	Project applicant	Submit the design-level geotechnical investigation	Prior to issuance of any site-specific grading or building permits	San José Public Works Department	<p>Review the design-level geotechnical investigation</p> <p>A copy of the PWD approved design-level geotechnical investigation will be submitted to PBCE Supervising Environmental Planner.</p>	Prior to issuance of any site-specific grading or building permits

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3) support concrete slabs-on-grade on a layer of non-expansive fill, and 4) lime treat expansive soils to reduce their expansive potential.						
HAZARDS AND HAZARDOUS MATERIALS						
<p>Impact HAZ-1: Development of the project site could result in elevated human exposure to concentrations of metals in on-site soils.</p> <p>Mitigation Measure HAZ – 1: The project applicant shall excavate contaminated soil and transport off-site for disposal, and/or cap impacted soil on the project site with pavement, buildings, and/or other materials, and implement institutional/engineering controls to prevent future exposure to the contaminated soil. The project applicant shall work with an oversight agency (Santa Clara County Department of Environmental Health [SCCDEH] or California Department of Toxic Substances Control [DTSC]) to obtain confirmation that remediation work has been completed. Documentation of completion (e.g., reports, correspondences with regulatory agency, “No Further Action” letter, etc.) shall be submitted to the PBCE Supervising Environmental Planner and the Environmental Services Department (ESD) Compliance Officer/Hazardous Materials Specialist for review and approval prior to issuance of building permits.</p>	Project Applicant	Disposal and/or capping of contaminated soil by a qualified professional and submittal of reports to PBCE.	Prior to the issuance of building permits.	SCCDEH or DTSC has oversight on the soil capping or disposal process. PBCE Supervising Environmental Planner will receive a copy of the “No further Action” clearance letter from SCCDEH or DTSC or equivalent documentation of completion.	“No further Action” or equivalent clearance letter from SCCDEH or DTSC and any supported documentation.	Prior to issuance of building permits.

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<p>Impact HAZ-2: Construction workers could be exposed to elevated levels of lead (and other metals), which could be hazardous to these workers. (Significant Impact)</p> <p>Mitigation Measures HAZ-2.1: A Site Management Plan (SMP) shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of lead-contaminated soils. The SMP shall include, but is not limited to, the following elements to mitigate potential risks associated with environmental conditions:</p> <ul style="list-style-type: none"> • Procedures for transporting and disposing the waste material generated during removal activities, if such transport and disposal is necessary • Procedures for stockpiling soil on-site, if such stockpiling is necessary • Provisions for collecting additional soil samples in previously inaccessible areas to confirm the extent of soil contamination, following demolition activities • Provisions for confirmation soil sampling as appropriate to obtain a "No Further Action" letter (or equivalent) from the state and/or local agency assuming oversight for the site • Procedures to ensure that fill and cap materials are verified as clean truck routes • Staging and loading procedures and record keeping requirements <p>The SMP shall be submitted to the City's Department of Planning, Building and Code Enforcement (PBCE) and Environmental Services Department (ESD) for review and approval prior to issuance of a grading permits. If the SMP is determined to be inadequate, at PBCE and ESDs' discretion, the SMP shall be submitted to an oversight regulatory agency (i.e., Santa Clara County Department of Environmental Health [SCCDEH]).</p> <p>Mitigation Measures HAZ-2.2: All contractors and subcontractors at the project site shall develop a health and safety plan specific to their scope of work and based upon the known environmental conditions for the site. Each Health and Safety Plan (HSP) shall be implemented under the direction of a Site Safety and Health Officer. The HSP shall include, but shall not be limited to, the following elements, as applicable:</p> <ul style="list-style-type: none"> • Provisions for personal protection and monitoring exposure to construction 	Project Applicant	Performance of soil investigation/ characterization by a qualified professional and submittal of reports to PBCE.	Prior to the issuance of grading, and building permits.	PBCE Supervising Environmental Planner and ESD Hazardous Materials Specialist will receive copies of the SMP and HSP, and any associated documentation or reports.	PBCE Supervising Environmental Planner and ESD Hazardous Materials Specialist will review and approve the SMP and HSP.	If applicable, the SMP shall be completed and approved prior to the issuance of grading permit and monitoring shall take place during construction.

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<p>workers</p> <ul style="list-style-type: none"> Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered Procedures for the safe storage, stockpiling, and disposal of contaminated soils Provisions for the on-site management and/or treatment of contaminated groundwater during extraction or dewatering activities Emergency procedures and responsible personnel. <p>The HSP shall be submitted to the City's Department of Planning, Building and Code Enforcement (PBCE) and Environmental Services Department (ESD) for review and approval prior to issuance of a grading permits. If the HSP is determined to be inadequate, at PBCE and ESDs' discretion, the HSP shall be submitted to an oversight regulatory agency (i.e., Santa Clara County Department of Environmental Health [SCCDEH]).</p>						
<p>Impact HAZ-3: Disturbance of on-site aggregate base rock that contains naturally-occurring asbestos (NOA) with an average concentration above 0.25 percent could result in significant asbestos dust emissions during construction and grading activities.</p> <p>Mitigation Measure HAZ-3: Implementation of the following mitigation measures shall be implemented prior to and during construction and grading activities to reduce the impacts of NOA dust emissions to a less than significant level.</p> <p>MM HAZ-3.1: Prior to construction and grading activities, additional sampling for NOA in on-site aggregate base rock shall be completed to determine if the average concentration of NOA on-site is above 0.25 percent. A report of the sampling shall be submitted to the PBCE Supervising Environmental Planner for approval.</p> <p>MM HAZ-3.2: If sampling results show that the average concentration of NOA on-site is above 0.25 percent, a plan to reduce NOA dust emissions shall be submitted to the PBCE Supervising Environmental Planner for approval. In addition, the following BAAQMD NOA dust control mitigation measures shall be implemented during construction and grading activities:</p>		<p>Performance of soil investigation for NOA levels by a qualified professional and submittal of soil report</p> <p>If NOA levels exceed the average concentration of 0.25 percent, then submit a plan to reduce NOA dust emissions.</p>	Prior to the issuance of grading permits.	PBCE Supervising Environmental Planner	NOA sampling report, and NOA dust emissions reduction plan, if applicable.	Prior to the issuance of grading permit and monitoring shall take place during construction.

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<ul style="list-style-type: none"> Notify the designated BAAQMD air pollutant control officer no later than the next business day upon discovery of naturally occurring asbestos, serpentine, or ultramafic rock and follow the officer's procedures to reduce NOA dust emissions. Construction vehicle speed shall be less than 15 miles per hour. Sufficient water shall be applied to the project area prior to disturbance to prevent visible emissions from crossing project boundaries. Areas to be graded or excavated shall be adequately wetted to prevent visible emissions from crossing project boundaries. Storage piles shall be adequately wetted, treated with chemical dust suppressant, or covered when material is not being added or removed Equipment must be washed down before moving from property onto paved roadway. Visible track-out on a paved public road must be cleaned using wet sweeping or high-efficiency particulate arrestance (HEPA) filter equipped vacuum device within 24 hours Implement the preceding dust control measures within 24 hours upon discovery of naturally occurring asbestos, serpentine, or ultramafic rock. 						
Noise						

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<p>Impact NOI-1: Mechanical equipment and truck deliveries associated with the project could generate noise in excess of the City's Municipal Code noise standard of 55 dBA DNL at residential property lines.</p> <p>Mitigation Measure NOI – 1.1: A detailed acoustical study shall be prepared during building design to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal at the property line of adjacent noise-sensitive uses. If the acoustic study finds that the building's mechanical equipment would exceed the City's threshold of 55 dBA DNL at the property line adjacent to a noise-sensitive use, the project applicant shall install the recommended noise control features, such as sound attenuators, baffles, and barriers, identified in the acoustical study, to the satisfaction of the Director of PBCE..</p> <p>Mitigation Measure NOI – 1.2: Noise generating activities such as maintenance activities and loading and unloading activities shall be limited to the hours of 7:00 AM to 9:00 PM. This hourly operation restriction does not apply to the normal business operations of the commercial use, which shall abide by the Title 20 zoning district standards applicable to the site.</p> <p>The acoustical study shall be submitted to PBCE Supervising Environmental Planner and the Building Division personnel for approval prior to issuance of building permit.</p>	Project applicant	Submit a detailed acoustical study with recommendations to ensure the City's noise level of 55 dBA DNL will be met near noise-sensitive receptors	Prior to the issuance of building permit	PBCE Supervising Environmental Planner and the Building Division personnel.	<p>Building Division personnel reviews and approves report.</p> <p>PBCE Supervising Environmental Planner signs off on report for building permit</p>	Prior to issuance of building permit.

Source: City of San José. 267 Delmas Avenue (Filice) Residential Project File No. SP16-010. May 2016.